

§ 1.317

§ 1.317 Lapsed patents; delayed payment of balance of issue fee.

If the issue fee paid is the amount specified in the notice of allowance, but a higher amount is required at the time the issue fee is paid, any remaining balance of the issue fee is to be paid within three months from the date of notice thereof and, if not paid, the patent will lapse at the termination of the three-month period.

[62 FR 53198, Oct. 10, 1997]

§ 1.318 [Reserved]

DISCLAIMER

§ 1.321 Statutory disclaimers, including terminal disclaimers.

(a) A patentee owning the whole or any sectional interest in a patent may disclaim any complete claim or claims in a patent. In like manner any patentee may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted. Such disclaimer is binding upon the grantee and its successors or assigns. A notice of the disclaimer is published in the Official Gazette and attached to the printed copies of the specification. The disclaimer, to be recorded in the Patent and Trademark Office, must:

(1) Be signed by the patentee, or an attorney or agent of record;

(2) Identify the patent and complete claim or claims, or term being disclaimed. A disclaimer which is not a disclaimer of a complete claim or claims, or term will be refused recordation;

(3) State the present extent of patentee's ownership interest in the patent; and

(4) Be accompanied by the fee set forth in § 1.20(d).

(b) An applicant or assignee may disclaim or dedicate to the public the entire term, or any terminal part of the term, of a patent to be granted. Such terminal disclaimer is binding upon the grantee and its successors or assigns. The terminal disclaimer, to be recorded in the Patent and Trademark Office, must:

(1) Be signed:

(i) By the applicant, or

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(ii) If there is an assignee of record of an undivided part interest, by the applicant and such assignee, or

(iii) If there is an assignee of record of the entire interest, by such assignee, or

(iv) By an attorney or agent of record;

(2) Specify the portion of the term of the patent being disclaimed;

(3) State the present extent of applicant's or assignee's ownership interest in the patent to be granted; and

(4) Be accompanied by the fee set forth in § 1.20(d).

(c) A terminal disclaimer, when filed to obviate a judicially created double patenting rejection in a patent application or in a reexamination proceeding, must:

(1) Comply with the provisions of paragraphs (b)(2) through (b)(4) of this section;

(2) Be signed in accordance with paragraph (b)(1) of this section if filed in a patent application or in accordance with paragraph (a)(1) of this section if filed in a reexamination proceeding; and

(3) Include a provision that any patent granted on that application or any patent subject to the reexamination proceeding shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the rejection.

[58 FR 54510, Oct. 22, 1993, as amended at 61 FR 42807, Aug. 19, 1996]

CORRECTION OF ERRORS IN PATENT

§ 1.322 Certificate of correction of Office mistake.

(a)(1) The Director may issue a certificate of correction pursuant to 35 U.S.C. 254 to correct a mistake in a patent, incurred through the fault of the Office, which mistake is clearly disclosed in the records of the Office:

(i) At the request of the patentee or the patentee's assignee;

(ii) Acting *sua sponte* for mistakes that the Office discovers; or

(iii) Acting on information about a mistake supplied by a third party.

(2)(i) There is no obligation on the Office to act on or respond to a submission of information or request to issue